

# EXHIBIT D

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**JOHN DOE**, *an individual*,

Plaintiff,

vs.

Case No.: 18-cv-11776

Hon. Arthur J. Tarnow

Mag. Elizabeth A. Stafford

**UNIVERSITY OF MICHIGAN** (as to Title IX violations), **BOARD OF REGENTS OF THE UNIVERSITY OF MICHIGAN**, *a constitutional corporate body* (as to Title IX & ELCRA violations), **PAMELA HEATLIE**, **ROBERT SELLERS**, **MARTIN PHILBERT**, **ERIK WESSEL**, **LAURA BLAKE JONES**, **E. ROYSTER HARPER**, **SUZANNE MCFADDEN**, and **PAUL ROBINSON**, *employees of the University of Michigan, sued in his or her personal and official capacities, jointly and severally*,

Defendants.

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**AFFIDAVIT OF DEBORAH L. GORDON**  
**Based on new information as of June 21, 2018**

STATE OF MICHIGAN            )  
                                                  )ss  
COUNTY OF OAKLAND        )

I, Deborah L. Gordon, being first duly sworn, state as follows:

1. Defendants key position in their Response to Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction [Dkt. #21], is that the Policy provides due process protections in that the OIE Investigator "conducts live, in-person interviews of the parties and witnesses during which she can assess their credibility ..." Dkt. #21, at 20.

2. Defendants' Response notes that on May 24, 2018, the OIE Investigator issued a "preliminary investigative report" to Claimant and Doe. Dkt. #21, at 11. I have thoroughly reviewed that report.

3. The report contained "non-verbatim" summaries of the private statements taken by the investigator.

4. The OIE investigator had one meeting with Claimant on March 29, 2018, where Claimant gave her statement.

5. The preliminary investigative report was sixteen pages. Based on new information described below, this was only the first part of the investigation.

6. Plaintiff and Claimant provided “feedback” to the preliminary report on May 29, 2018 as requested by the investigator.

7. The feedback provided by Plaintiff raised numerous concerns and questions that needed to be addressed as part of the investigation.

8. The OIE investigator’s job was to investigate the new feedback.

9. After investigating the new feedback, concerns and questions, on June 21, 2018, the investigator issued a second preliminary report. I have thoroughly reviewed that report.

10. The second preliminary report contains significant new information from the Claimant. It is thirty pages.

11. The portion of the second preliminary report devoted to Claimant’s statement added an additional 5,401 words from the first preliminary report, or 67.7% of her total statement (total words were 7,981).

12. But there were no “live interviews” of the Claimant or Plaintiff as part of the investigation reflected in the second preliminary report. Rather, per the second preliminary report, the OIE investigator obtained all of her new information via emails or phone calls with the Claimant. There were no emails or phone calls to the Plaintiff from the OIE investigator.

13. The second preliminary report contained statements from Claimant that raised significant credibility issues.

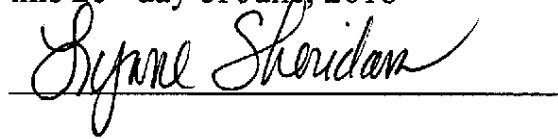
14. Based on all of the foregoing, there was no “live interview” to assess the credibility of Claimant by the OIE investigator with regard to the majority of her statement, as contained in the second preliminary report.

Further, deponent sayeth not.



Deborah L. Gordon

Subscribed and sworn to before me  
this 26<sup>th</sup> day of June, 2018



LYNNE SHERIDAN  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Dec 24, 2019  
ACTING IN COUNTY OF